

**Introduced by Senator Padilla**

February 22, 2012

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An act to repeal Section 7907 of, and to repeal and add Section 7904 of, the Public Utilities Code, relating to telecommunications.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1160, as introduced, Padilla. Telecommunications: intentional service disruption.

Existing law provides that an agent, operator, or employee of a telegraph or telephone office who willfully fails to send a message received by the office is guilty of a misdemeanor, as specified. Existing law also provides that where a law enforcement official has probable cause to believe that a person is holding hostages and is committing a crime, or is barricaded and is resisting apprehension through the use or threatened use of force, the official may order a previously designated telephone corporation security employee to arrange to cut, reroute, or divert telephone lines, as specified.

This bill would repeal those provisions and instead would provide that a person who owns, operates, or controls facilities for providing telecommunications service that interconnects with the public switched telephone network shall not intentionally interrupt, suspend, or disconnect service to a particular user or to a geographic area, except as specified.

The bill would also find and declare that it is a matter of statewide concern to ensure that California users of any telecommunications service that interconnects with the public switched telephone network not have this service interrupted and thereby be deprived of a means to connect with the state's 911 system in an emergency or be deprived of a means to engage in constitutionally protected expression.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7904 of the Public Utilities Code is  
2 repealed.  
3 ~~7904. Every agent, operator, or employee of any telegraph or~~  
4 ~~telephone office, who wilfully refuses or neglects to send any~~  
5 ~~message received at such office for transmission, or wilfully~~  
6 ~~postpones the transmission of the message out of its order, or~~  
7 ~~wilfully refuses or neglects to deliver any message received by~~  
8 ~~telegraph or telephone, is guilty of a misdemeanor. Nothing in this~~  
9 ~~section shall be construed to require any message to be received,~~  
10 ~~transmitted or delivered, unless the charges thereon have been paid~~  
11 ~~or tendered, nor to require the sending, receiving, or delivery of~~  
12 ~~any message counseling, aiding, abetting, or encouraging treason~~  
13 ~~against the Government of the United States or of this State, or~~  
14 ~~other resistance to the lawful authority, or any message calculated~~  
15 ~~to further any fraudulent plan or purpose, or to instigate or~~  
16 ~~encourage the perpetration of any unlawful act, or to facilitate the~~  
17 ~~escape of any criminal or person accused of crime.~~  
18 SEC. 2. Section 7904 is added to the Public Utilities Code, to  
19 read:  
20 7904. (a) A person who owns, operates, or controls facilities  
21 for providing telecommunications service that interconnects with  
22 the public switched telephone network shall not intentionally  
23 interrupt, suspend, or disconnect service to a particular user or to  
24 a geographic area except in compliance with all of the following:  
25 (1) Pursuant to an order signed by a magistrate that includes all  
26 of the following findings:  
27 (A) That probable cause exists that the service is being or will  
28 be used for an unlawful purpose or to assist in a violation of the  
29 law.  
30 (B) That absent immediate and summary action to interrupt,  
31 suspend, or disconnect service, serious danger to public health or  
32 safety will result.  
33 (C) That interruption, suspension, or disconnection of service  
34 will not suppress speech that is protected by the First Amendment

1 or Section 2 of Article I of the California Constitution, or violate  
2 any other rights under federal or state law.

3 (2) After providing the California Public Utilities Commission  
4 or the Federal Communications Commission, or both, any required  
5 notification and complying with any applicable regulation of either  
6 commission or any other applicable provision of state or federal  
7 law.

8 (b) The Legislature finds and declares that it is a matter of  
9 statewide concern to ensure that California users of any  
10 telecommunications service that interconnects with the public  
11 switched telephone network not have this service interrupted and  
12 thereby be deprived of a means to connect with the state's 911  
13 system in an emergency or be deprived of a means to engage in  
14 constitutionally protected expression.

15 SEC. 3. Section 7907 of the Public Utilities Code is repealed.

16 ~~7907. Notwithstanding Section 591, 631, or 632 of the Penal~~  
17 ~~Code or Section 7906 of this code, whenever the supervising law~~  
18 ~~enforcement official having jurisdiction has probable cause to~~  
19 ~~believe that a person is holding hostages and is committing a crime,~~  
20 ~~or is barricaded and is resisting apprehension through the use or~~  
21 ~~threatened use of force, such official may order a previously~~  
22 ~~designated telephone corporation security employee to arrange to~~  
23 ~~cut, reroute, or divert telephone lines for the purpose of preventing~~  
24 ~~telephone communication by such suspected person with any~~  
25 ~~person other than a peace officer or a person authorized by the~~  
26 ~~peace officer.~~

27 ~~The telephone corporation shall designate a person as its security~~  
28 ~~employee and an alternate to provide all required assistance to law~~  
29 ~~enforcement officials to carry out the purposes of this section.~~

30 ~~Good faith reliance on an order by a supervising law enforcement~~  
31 ~~official shall constitute a complete defense to any action brought~~  
32 ~~under this section.~~